IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 18920 & 19115 OF 2005

Date: 12.09.2005

W.P.No.18920/2005

BETWEEN:

P. Nagur Saheb and another

…. PETITIONERS

Vs.

1. The District Collector, Kadapa and others.

…. RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos. 18920 & 19115 OF 2005

COMMON ORDER:

The dispute in these two writ petitions relates to the Government land admeasuring Acs.14.00 in S.No.288 of Savisettipalli Village of Uddamanu Panchayat in S.A.K.N. Mandal of Kadapa District. In both the writ petitions, the proceedings of the Revenue Divisional Officer (RDO) dated 30.7.2005 is assailed *inter alia* on the ground that the same is without jurisdiction.

The brief facts of the matter are as follows. The petitioners in W.P.No.18920 of 2005 were allegedly assigned an extent of Acs.4.50 each in S.No.288 by way of DKT pattas in December 1997, and they have been allegedly in possession of the land. They allege that Chapati Laxminarayana Reddy threatened them and demanded to vacate the land alleging that he and his mother-in-law were assigned Acs.5.00 of land each in S.No.288. The petitioners therefore gave a complaint to the Mandal Revenue Officer (MRO), who conducted an enquiry. The Mandal Revenue Officer appears to have sent a report to the

RDO. The petitioners were asked to appear for an enquiry on 26.7.2005. They did so. Ultimately, the RDO passed orders on 30.7.2005 cancelling DKT pattas on the ground that they were fake pattas and were granted illegally.

The two petitioners in W.P.No.19115 of 2005 claim that they were granted DKT pattas in July 1979, and that they obtained pattedar passbooks and in possession of the property. They also allege that when the RDO asked them to appear for an enquiry, they appeared before him whereupon the order dated 30.7.2005 was passed cancelling the pattas. The other allegations regarding jurisdiction and the legality of the orders in this writ petition also same.

The learned counsel for the petitioners in W.P.No.19115 of 2005, Sri L.J.Veera Reddy strenuously contends that the order passed by the RDO is contrary to the Board Standing Order No.15 (15) (for short 'BSO-15') and that the RDO has no jurisdiction to cancel the pattas. He also submits that Laxminarayana Reddy and Obulamma were issued pattas in 1979 and they have been in possession and cultivating the land, and therefore, cancelling the pattas after a lapse of 26 years is illegal and arbitrary. The learned counsel for the petitioners in the other writ petition Ms. Vijaya Lakshmi contends that the pattas given to Nagoor Saheb and P. Kasamma (petitioners in W.P.No.18920 of 2005) are genuine pattas and they are alone entitled for assignment and that the orders passed by the RDO runs counter to the same.

The learned Assistant Government Pleader for Revenue (Assignments) Sri V. Hariprasada Reddy, on instructions submits that the pattas given to the petitioners in both the writ petitions were found to be fake and that the grant of pattas was irregular and that at the relevant point of time the retired MROs brought into existence fake pattas, which cannot be sustained. He also submits that when the petitioners in W.P.No.18920 of 2005 gave a complaint, the MRO, S.A.K.N. Mandal conducted an enquiry and submitted report to the RDO, Rajampet, who treated the same as appeal under Paragraph-15 of BSO-15.

The MRO is competent authority to assign the land by DKT patta under Paragraphs-3 and 4 of BSO-15. However, assignment is subject to condition that the land assigned shall be brought into cultivation within a period of three years and any default thereof entails in cancellation of patta. Only when the assignee fails to cultivate the land within the stipulated time, the MRO gets jurisdiction to cancel the patta after issuing a notice to the assignee. In case of such cancellation, Paragraph-15 of BSO-15 enables the aggrieved assignee to prefer an appeal to the RDO or Collector. Therefore, there is considerable force in the submission of the learned counsel for the petitioners that RDO is not competent to cancel the assignment issued to a person. In case a person obtains DKT patta by playing fraud or misrepresentation or is in possession of the Government land by reason of a fake or forged patta, even then, the RDO being an appellate authority under Paragraph-15 of BSO-15 cannot cancel the pattas. In such an event, it is for the designated authority under Paragraph-18 of BSO-15 to take necessary action. As per paragraph-18, if the Collector is satisfied that there has been material irregularity in the procedure, he may pass an order cancelling the patta. Indeed Paragraph-18 confers power to cancel any patta without any limit of time where the patta is obtained by a person by fraud or misrepresentation. In this case, the learned Assistant Government Pleader for Revenue contends that the pattas produced by the petitioners are fake and therefore it is a fit case where the matter should be

remitted to the Joint Collector, who is the competent District Official as per A.P. District Collectors (Delegation of Powers) Act, 1977 to decide the matter.

Accordingly, the impugned order dated 30.7.2005 passed by the RDO, Rajampet is set aside and the matter is remitted to the Joint Collector, Kadapa with a direction to issue a notice to the petitioners in both the writ petitions, afford a reasonable opportunity of being heard, and pass appropriate orders within a period of eight (8) weeks from the date of receipt of a copy of this order. There shall be status quo as to the possession as on today. The submission of the learned Assistant Government Pleader that the land is vacant and nobody was in possession is recorded.

These two Writ Petitions, with the observations and directions, is accordingly disposed of. No costs.

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(**V.V.S. RAO, J.)**

12th September, 2005

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